IN THE HIGH COURT OF JUDICATURE AT BOBBY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.209 OF 2007

Manilal S/o.Mulchanddas Mehta
& Anr. .. Petitioners.

Versus

Mr.Sudhir Kumar Jain .. Respondent.

Mr.A.M.Saraogi for petitioners.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 27th August, 2007.

P.C.

1. Heard Mr.Saraogi, appearing for petitioners. Perused the petition and the annexures thereto, including the Agreement of partnership.

2. The nature of business is of manufacturing and reselling of industrial and consumer items of Metal, Plastics, PVC Compound Fuses Wire, Cable Wire, Ferrous and Non-Ferrous metal Machinery parts and components.

3. Mr.Saraogi states that from the petition, it is clear that the respondent has withdrawn himself from the partnership affairs and has also vacated the premises, which are factory premises owned by the petitioners. However, there are some articles and materials lying in the said factory premises, which have not been removed despite repeated notices from the petitioners' Advocate. He has relied upon the correspondence prior to this petition.

4. Having perused the petition and the annexures thereto, to my mind, there is no

description of the materials and articles lying at site, save and except, referring to them as machinery and articles. There is no identification carried out in that behalf. Considering the nature of the business of the firm, the articles may be belonging to third party. In such circumstances, relief prayed of permitting the petitioners to dispose of the same and deposit the proceeds therein in Court cannot be granted at this stage.

5. After perusing the petition and hearing Mr.Saraogi, I am satisfied that the interest of justice would be subserved if at this stage, the petitioners are permitted to make an inventory of all the articles after they are properly identified and after the said exercise, store them at a place, which would be selected by the petitioners and details of which would also be placed by the petitioners on affidavit in this

Court. Mr.Saraogi states that some time be given to carry out inventory and to shift the articles to the premises. This relief can be granted, provided the petitioners once again put the respondent to notice of the order passed by this Court and the inventory proposed to be carried out by him. If the respondent does not respond to the communication in that behalf, the petitioners shall proceed to remove the articles and store them until further orders from this Court or from the Arbitral Tribunal. Needless to state that before taking the inventory, the petitioners shall also inform the respondent of the place/premises where these articles are being shifted and stored by them.

6. The aforesaid exercise is permitted to be carried out within a period of 4 weeks from today. Needless to state that if the conditions stipulated as above are not fulfilled, the

petitioners would be liable to such orders and directions from the Arbitral Tribunal in that behalf. The necessary affidavit would be filed within a period of 2 weeks from the aforesaid exercise. Needless to state that this order is passed without prejudice to the rights and contentions of both sides, including the relief of reimbursement/payment of necessary expenses and costs with regard to the inventory and shifting of the articles.

7. Petition disposed of.

(S.C.Dharmadhikari, J.)